***THE HON'BLE MR JUSTICE B.PRAKASH RAO**

And

***THE HON'BLE MR JUSTICE RAMESH RANGANATHAN**

+W.P.NO.25757 OF 2005

-

-

%Dated 04.06.2006

#S.Mallikarjuna Rao

…PETITIONER

VERSUS

$1. The Government of Andhra Pradesh, rep.by its Principal Secretary, Dep.of General Administration & Accommodation, Secretariat Buildings, Hyderabad-22.

2. V.Suryanarayana Murthy,Special Category Steno, O/o.Engineer-in-Chief (Irrigation), Irrigation and CAD Department, Jalasoudha Building, Errumanzil, Hyderabad R/o.Quarter No.B-10, Ground Floor,erra Manzil Colony, Hyderabad.

(R2 impleaded as per the Court order dated 04.06.2006 in W.P.M.P.No.34264 of 2005)

…RESPONDENTS

! Counsel for Petitioner: Mr.Ghanta Rama Rao

^ Counsel for the Respondent: G.P. for Services II

< GIST:

>HEAD NOTE:

?Cases Referred.

1. 2002 (4) ALD 57 (SC)

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.25757 of 2005

5th June 2006

Between:

S.Mallikarjuna Rao, S/o.Radhakrishna Murthy, 51 years, Sr.Assistant, O/o.Engineer-in-Chief, Admn.Wing, Irrigation And C.A.D. Department, Erra Manzil, Hyderabad.

...PETITIONER

AND

1. The Government of Andhra Pradesh, rep.by its Principal Secretary, Dep.of General Administration & Accommodation, Secretariat Buildings, Hyderabad-22.
2. V.Suryanarayana Murthy,Special Category Steno, O/o.Engineer-in-Chief (Irrigation), Irrigation and CAD Department, Jalasoudha Building, Errumanzil, Hyderabad R/o.Quarter No.B-10, Ground Floor,erra Manzil Colony, Hyderabad.

(R2 impleaded as per the Court order dated 04.06.2006 in W.P.M.P.No.34264 of 2005)

...RESPONDENTS

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.25757 of 2005

ORDER: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard Sri Ghanta Rama Rao, the learned counsel appearing on behalf of the petitioner and the learned Government Pleader for

Services II appearing on behalf of the respondent.

The petitioner, who is an employee working as Senior Assistant with the respondent, files this Writ Petition, *inter alia*, seeking a writ of certiorari in rejecting his application as per the order dated 22.11.2005 in O.A.No.6959 of 2005 on the file of the A.P. Administrative Tribunal, Hyderabad ('the Tribunal' for brevity), *inter alia*, seeking for allotment of quarter to him and also

assailing the impugned Memo No.21607/Accom.B2/2005-2 dated 01.07.2005 rejecting such request. Without going into merits, the Tribunal dismissed the same following the judgment reported in ***Union of India v. Sh.Rasila Ram and others***[1] on the ground that the Tribunal has no jurisdiction with regard to the allotment of the Government quarter and other related matters.

Having heard the submissions made on both sides and on perusal of the material available on record, the point that arises to be considered in this case is as to whether the application filed by the petitioner under Section 19 of the Administrative Tribunals Act, 1985 ('the Act' for brevity) before the tribunal seeking relief of allotment of a Government quarter, while he is in service is maintainable.

There is no dispute that the petitioner is in service and seeking allotment of Government quarter. The question involved in the decision ***Union of India v. Sh.Rasila Ram and others***'s case (1 supra) was in regard to the unauthorized occupation of the quarter by the employee even after his retirement from service and therefore, it was held that such question would not come

within the parameters of Section 2 (3) of the Act.

On perusal of the material available on record, it is to be seen having regard to facts and circumstances that the present case does not fall within the four corners of the above said case since the petitioner admittedly continues to be in service. Whereas aforesaid case is in regret of an employee, who on attainment of age of superannuation is no longer in service. And, it is now well settled, an employee after such retirement, is not entitled to continue or squat over a quarter allotted to him nor for any such allotment. Therefore, as he is an employee seeking for allotment of Government quarter, the learned Government Pleader appearing for the respondent herein submitted that with reference to the allotment of the Government quarters in regard to the employees in service, it is squarely covered by the Rules namely Allotment of Government Quarters Rules, 1973. Therefore, under the statutory coverage, the entitlement for quarter and allotment thereof certainly falls within the wider meaning of the other service conditions. Even otherwise, it has

been pointed out by the learned counsel for the petitioner that earlier the has approached this Court under Article 226 of the Constitution of India in a Writ Petition in W.P.No.22136 of 2005 and this Court dismissed the same as per the order dated 07.10.2005 directing him to approach the Tribunal having regard to the alternative remedy available to him. In the above circumstances, the rejection of the application filed by him is not appropriate more so when the petitioner is still in service. Necessarily, a distinction has to be drawn in respect of the applications filed by the persons in service in contradiction to those not in service. Therefore, the petitioner is entitled to file an application under Section 19 of the Act before the Administrative Tribunal.

Accordingly, the Writ Petition is allowed. The impugned order dated 22.11.2005 is set aside. The Tribunal is directed to dispose of the main application on merits in accordance with law as expeditiously as possible after giving notice and opportunity to both the sides. No costs.

_____

(B.PRAKASH RAO, J)

_____

(RAMESH RANGANATHAN, J)

5th June 2006

Note: LR Copy be marked
B/O
RRB

-

---

[1] 2001 (4) ALD 57 (SC)